

October 22, 2012

D R A F T comments----

Dear Planning Board Members and Counsel:

Re: Labella Analysis and Recommendations: Irondequoit Senior Housing Regulations

The Analysis contains omissions, is incomplete and appears to contradict previous analysis made by Labella. The basis of the report appears only to support recommendations of the Supervisor for one application, on one site, for one project for one developer.

Planning Board would be derelict if it accepts and recommends this report without analyzing the omissions, recommendations and court cases involving Irondequoit Steep Slope considerations.

After working with the town for over 4 years, Clark Patterson Lee recommended the “R” codes be combined. Labella cites no reason to disregard the CPL analysis and recommendation.

The Department of State, Office of Aging Resource Manual includes several articles on senior housing options and “Aging in Place” that LaBella fails to discuss. LaBella’s code recommendation excludes the needs of the majority of seniors in the town.

LaBella omitted Brighton, the town most similar in nature to Irondequoit, from comparisons. Brighton’s code is resistant to stuffing massive commercial apartment buildings into established residential neighborhoods. The omission is convenient at the very least.

LaBella recommended the Code not consider “character of neighborhoods” as they changed that phrase to “character of the Town”. A distinction with wide reaching impacts on the intent and purpose of any code. The Master Plan is clear in its concern for maintaining “character of neighborhoods” as is the wording in the existing code. LaBella removed the “neighborhood” concern and made it merely a very broad based and insignificant town concern. The purpose of zoning codes is to protect individuals and neighborhoods, not make spot zoning-code changes. Planning Board should reject the recommendation as politically motivated and not offered for the benefit of the residents of the community.

LaBella states: “We recommend that the minimum size of the site be based upon the total area rather than the “net buildable area”. LaBella may feel that ignoring the impacts of EPODs when considering size and density is without merit but the courts, Clark Patterson Lee and LaBella itself do not support their new unsupported claim.

Irondequoit’s remaining vacant parcels are nearly all encumbered with environmental restrictions. LaBella recommends the town ignore EPODs when considering lot size—hence density. The current application site is burdened with steep slopes. The application contains incomplete documentation for steep slopes as it did not identify and account for the entire steep slope district. The calculation omits the steep slopes of the Willow Creek lot, yet uses the area. Furthermore the Steep Slope calculation is incomplete and flawed as it fails to include the requirements of the “transition zones”.

The land under consideration is comprised of Arkport, Dunkirk and Colonie soils----“limitations to all uses...are severe”.<sup>1</sup> It is possible the transition zone could reduce the “net buildable area” significantly; perhaps reducing the net area by an acre or more. If Labella and the Planning Board and Counsel do not feel it appropriate to consider the “transition zone” as it pertains to this parcel, the seqra review and the current code recommendation they should refer to a LaBella Associates Memorandum and Supreme Court Decision in favor of the Town of Irondequoit:

EPOD2---Steep Slopes

Provide site specific calculation of the site determined by a professional soil scientist or engineer using the soil classes and nomenclature contained in the best management practices of the Irondequoit Bay Coordinating Committee (Section 2325-52D(1)(1)).<sup>2</sup>

A Supreme Court ruling on December 20, 2006 supporting the position of the Town of Irondequoit, states the Steep Slope Protection District “is to minimize the impacts of development activities on steep slopes in the Town of Irondequoit by regulating activities...”.<sup>3</sup>

“A transition zone is, by definition.....included in an environmental protection overlay district if it contains soil classes as determined by a site-specific high intensity soil survey that indicate moderate to severe limitations for development and recreational uses”.<sup>4</sup>

Judge Frazee determined the transition zone is a part of Steep Slope and its determination is made by a “site specific high intensity soil survey”<sup>5</sup>.

The Monroe County Soils Survey Map depicts the site as ATF3, Arkport, Dunkirk and Colonie soils----“limitations to all uses...are severe”<sup>1</sup>. The Steep Slope calculation of the site may include a transition zone equaling substantial areas.

The LaBella recommendation to exclude EPOD consideration for site size in effect recommends extreme density for apartments on most remaining undeveloped parcels in the town. The recommendation is likely political and seems only in support of a spot zoning code change.

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<sup>1</sup> Monroe County Soil Survey, US Dept of Ag, Cornell University

<sup>2</sup> LaBella Memorandum dated May 16, 2006 noted in Supreme Court Decision Index No. 2006/10479 regarding the Town of Irondequoit

<sup>3</sup> Supreme Court Decision –part of Decision page 6—regarding Town of Irondequoit

<sup>4</sup> Supreme Court Decision—part of Decision page 6—regarding Town of Irondequoit

<sup>5</sup> Supreme Court Decision—part of Decision page 8—regarding Town of Irondequoit